UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 09/922,846 | 08/07/2001 | Ariel Peled | 01/22329 | 8637 |

7590 10/17/2007

Martin D. Moynihan
PRTSI, Inc.
P. O. Box 16446
Arlington, VA 22215

| EXAMINER | |
|---|---|
| BARQADLE, YASIN M | |
| ART UNIT | PAPER NUMBER |
| 2153 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 10/17/2007 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 09/922,846 | PELED ET AL. | |
| | Examiner | Art Unit | |
| | Yasin M. Barqadle | 2153 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *08/03/2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-3,52-56,60-64 and 79-98* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,52-56,60-64 and 79-98* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

**Response to Amendment**

1. The amendment filed on August 03, 2007 has been fully considered but are not deemed persuasive.

- Claims 4-51,57-59,65-78, 99-124 and 138-144 have been previously canceled.
- Claims 89-91 and 125-137 are canceled.
- Claims 1-3,52-56,60-64 and 79-98 presented for examination.

**Response to Arguments**

2. The Applicant argues, " The Applicant respectfully believes that Parekh does not teach establishing a network node (such as a DNS) originating a request to access a connectible entity as being in the vicinity of the user. Since the identity of the originating network node is easily derivable from a standard DNS query, it is not necessary to laboriously trace a dedicated communication route back to the original user, as in Parekh." page 10 4th paragraph. The Examiner notes that claim 1 recites, "establishing said identified network node as a network node current vicinity of the user client" In other words there is no DNS mentioned in claim one. Therefore, any node the can be associated with the user such as a gateway or ISP server could

meet the claim language. Also, the Examiner notes that Parekh teaches several ways to determine the current location of a user including identifying the DNS closest to the user by using nslookup and whois utility. See col. 5, lines 23-55 and col. 6, lines 39-67. Trace route is only of the utilities that Parekh uses to determine the location of an Internet user.

Applicant argues, "Rudinsky does not relate to Interact communications between a user and a host site in any way. Specifically, Rudinsky does not teach performing line measurements in order to obtain information for geo-locating a user accessing a host site." page 11, 4th paragraph. Examiner notes that Rudinsky is only used to teach the missing limitation of measuring connection line qualities, however Parekh combined with Rudinsky teach the claimed limitations of the invention.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-3, 55-56,60-64, and 86-98 are rejected under 35 U.S.C. 102(e) as being anticipated by Parekh et al USPN (6757740).

As per claims 1, 55 and 96, Parekh et al teach the invention for determining a current location of a user client (fig. 13, 5) in an electronic interaction with a server (server 62) over a network having a plurality of nodes at different locations (fig. 6 and abstract), the apparatus comprising:

a redirection unit, configured for redirecting said user client to a connectible entity during a direct communication interaction with said server initiated by said user client, wherein said user client is identifiable from a request to access said connectible entity (col. 13, lines 17-62; col. 16, lines 16-65 and col. 17, lines 48-54);

a network node data gatherer (see fig. 10 and fig. 11) configured for:

i. identifying, from a request to access said connectible entity, a network node originating said request (Col. 13, lines 59-62);

ii. establishing said identified network node as a network node in the current vicinity of said user client (col. 5, lines 23-55; col. 6, lines 39-67 and Col. 13, lines 59-62); and

iii. obtaining, according to said direct communication interaction, network node information for said established network node (col. 5, lines 23-55 and col. 6, lines 39-67); and

"At 158, the Java applet then sends back the unique parameter tag to the web server 60. Since the connection is direct, the web server 60 at 159 can determine the correct IP address for the user 5, so the web server 60 now can associate the session tag with that IP address on all future requests coming from the proxy server 38." (Col. 13, lines 34-47), and

a network node data correlator for correlating said network node information with a network node location map, thereby to provide said server with said current location for said user client (the collected information is stored in a database for analysis to determine the geographic location of a target host col. 10, lines 1-33; col. 11, lines 32-66 and col. 15, lines 39-64), where in said network node location map is a map of said network and said client network node information an identification of an Internet gateway used by said user client, and said identification of said Internet gateway is an IP address of said gateway (see col. 7, lines 30-65 for the gateway 130.207.244.1 of the host 130.207.47.1).

Parekh et al further teaches where the identification of the internet gateway is a DNS of said gateway col. 5, lines 18-41 and col. 6, lines 39 to col.7, line 24).

As per claims 2 and 97, Parekh et al teach the invention, further comprising a digital media distributor associated with said network data correlator and operable to use said current location to govern digital media distribution to said user client [col.14, lines 12-26].

As per claims 3, 56 and 98, Parekh et al teach the invention, further comprising a location confirmation unit for separately determining that said location provided by said client network node information is part of a current communication path to said user client [col. 7, lines 24 to col. 8, line 63].

As per claim 60, Parekh et al teach the invention, further comprising a host name assigner for assigning a host name to said connectible entity for each user client request, thereby to cause said Internet gateway to reveal its identity whilst attempting to locate said hostname [col. 7, lines 24 to col. 8, line 63 and col. 13, lines 6-62. see also col. 14, lines 1-12].

As per claim 61, Parekh et al teach the invention, wherein said host name is a unique host name for each user client request [user client hostnames are inherently unique in IP networks. col. 1, lines 29-34 and col. 7, lines 24 to col. 8, line 63).

As per claim 62, Parekh et al teach the invention, said server comprising a master DNS, said master DNS being operable to give out to said user client an IP address upon requesting by said user client [col. 1, lines 45-59 and col. 5, lines 18-41 and col. 6, lines 39 to col.7, line 24].

As per claim 63, Parekh et al teach the invention, said server further comprising at least one second DNS [**col. 5**, lines 18-41 and col. 6, lines 39 to col.7, line 24. see also col. 9, lines 24-36].

As per claim 64, Parekh et al teach Apparatus according to claim 9, wherein said connectible entity is assignable a unique host name for each transaction request [col. 5, lines 18-41 and col. 6, lines 39 to col.7, line 24. see also col. 9, lines 24-36].

As per claim 86, Parekh et al teach the invention, further comprising:

trace routing functionality for determining a network node distance and route of a user client by sending and attempting to receive response messages having varied time to live values [see ping and traceroute results in col. 6 and 7; col. 17, lines 47-58].

As per claim 87, Parekh et al teach the invention, further comprising:

combining functionality for combining trace routing from several locations to the user in order to enhance accuracy (col. 7, lines 24 to col. 8, line 63 and col. 15, lines 39-64].

As per claim 88, Parekh et al teach the invention, wherein said network node data gatherer comprises a connectible entity for carrying out trace routing to said server from said user client and sending results of said trace routing to said server [see ping and traceroute results in col. 6 and 7; col. 5, lines 18-41 and col. 6, lines 39 to col.7, line 24].

As per claim 89, these claims include similar limitations as claim 1 and 55. Therefore, it is rejected with the same rationale. Further, Parekh et al teach a network node data gatherer comprising a software agent (program) locatable at a network access node (col. 13, lines 23-62 and col. 15, lines 61 to col. 16, line 28).

As per claims 90, Parekh et al teach the invention, wherein said network access node is a digital network access node [see fig. 1 and 6].

As per claim 91, Parekh et al teach the invention where the digital network access node being a digital line access multiplexer [dial-up modem pool is used for accessing the Internet col. 6, lines 29-33 and col. 9, lines 53-63].

As per claim 92, Parekh et al teach the invention said network node being an Internet service provider comprising a plurality of servers and said network node data gatherer comprising functionality to determine additional information of said user client from an individual one of said plurality of servers with which it connects [fig. 8 and 13, col. 5, lines 18-41].

As per claim 93, Parekh et al teach the invention, said network node data gatherer being operable to obtain said additional information by correlating with a user database of the Internet service provider [col. 5, lines 18-41 and col. 8, lines 23-62].

As per claim 94, Parekh et al teach the invention, comprising a database builder for building a database of user client to correlate obtained location data with other data concerning said user clients [fig. 6,50 and fig. 13,80 and 90].

As per claim 95, this limitation includes similar limitations as claims 18, 93 and 94. Therefore, it is rejected with the same rationale.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 52-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parekh et al USPN (6757740) in view of Rudinsky et al USPN. (20020090060).

As per claim 52, although Parekh et al shows substantial features of the claimed invention including obtaining client location information and the bandwidth used by the user, he does not explicitly show a line measuring unit for measuring connection line quality.

Nonetheless, this feature is well known in the art and would have been an obvious modification of the system disclosed by Parekh et al, as evidenced by Rudinsky et al USPN. (20020090060).

In analogous art, Rudinsky et al whose invention is about information collection device in a communications networks, disclose a data collection device for measuring connection line quality [¶ 45]. Giving the teaching of Rudinsky et al, a person of ordinary skill in the art would have readily recognized the desirability and the advantage of modifying Parekh et al by employing the system of Rudinsky et al because it produces useful data for determining the physical line quality.

As per claims 53, Rudinsky et al teach the invention where the line measuring unit comprising a connection comparison unit for comparing line qualities of different connections [¶ 10 and 95-98].

As per claims 54, Rudinsky et al teach the invention qualities being one of a group comprising: signal to noise ration, specific frequency attenuation, end path delay, echo characteristics, delay variance, and compression artifacts [¶ 118-119].

5. Claims 79-85, are rejected under 35 U.S.C. 103(a) as being unpatentable over Parekh et al USPN (6757740) in view of Mashinsky USPN. (6088436).

As per claim 79 and 80, although Parekh et al shows substantial features of the claimed invention as explained in claim 1 above, he does not explicitly show confirming a contact via a telephone number by giving a user an identification for looping using a user client and a connection made using the telephone number. Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Parekh et al, as evidenced by Mashinsky USPN. (6088436).
In analogous art, Mashinsky whose invention is about a network of telecommunication nodes using automated callback system, discloses a system confirming a contact via a telephone number (user telephone number is compared to a list of authorized telephone numbers stored in authorized user database) by giving a user an identification for looping (callback) using a user client and a connection made using the telephone number [authorized user database 829, fig. 8 stores the account numbers, passwords, and telephone numbers of individuals authorized to access on-line services Col. 19, lines 41 to col. 20, line 66]. Giving the teaching of Mashinsky, a person of ordinary skill in the art would have readily recognized the desirability and the advantage of modifying Parekh et al by employing the callback system of Mashinsky in order to minimize

the cost of connecting authorized customers to an on-line service [col. 19, lines 25-28].

Mashinsky further teaches a request for a user telephone number [col. 54-65].

As per claim 82, this claim has similar limitations as claim 31. Therefore, it is rejected with the same rationale.

As per claim 83, Mashinsky teaches the invention, said authentication unit being operable to send authentication information via said connection for return via said network connection [col. 20, lines 1-43 and col. 21, lines 10-51].

As per claim 84, Mashinsky teaches the invention, said authentication unit being operable to send authentication via said network for return via said direct connection [col. 20, lines 1-43 and col. 21, lines 10-51].

As per claim 85, Mashinsky teaches the invention, said authentication unit being operable to send authentication via said network for return via said direct connection [col. 20, lines 1-43 and col. 21, lines 10-51].

**Conclusion**

6. **ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yasin Barqadle whose telephone number is 571-272-3947. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on 571-272-3949. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Information regarding the status of an application may be obtained form the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or public PAIR system. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YB

Art Unit 2153

ARIO ETIENNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER